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Report of the Special Rapporteur on the situation of human rights in Cambodia*

Note by the Secretariat

Cambodia has continued to implement a number of ambitious programmes, the fulfilment of which will enhance the protection of human rights in the country. The Government is also working towards submitting a voluntary mid-term report for consideration by the Working Group on the Universal Periodic Review. Although there have been many positive developments in the situation of human rights, they have been overshadowed by the prevailing political situation characterized by the increasing number of arrests and cases of detention of civil society actors and members of the largest opposition party, and overt and covert restrictions on civil society actors and human rights defenders.

During her missions, the Special Rapporteur was encouraged by the willingness of government interlocutors to engage in discussions. In furtherance of this dialogue and with the aim of finding solutions to strengthen the respect, promotion and protection of human rights in Cambodia in fulfilment of the State's treaty obligations, the mandate holder has made a number of recommendations, and encourages the Government to consider them with the aim of establishing a programme of action with a clear implementation timetable.

* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.

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I. Introduction

1. The present report is submitted to the Human Rights Council in accordance with Council resolution 30/23. During the period under review, the Special Rapporteur monitored the situation of human rights in Cambodia, receiving information from different stakeholders, including the Government, civil society organizations and private citizens.

2. The Special Rapporteur undertook two missions to Cambodia: from 17 to 24 September 2015, and from 21 to 31 March 2016. As reported orally to the Human Rights Council at its thirtieth session, the Special Rapporteur has decided to approach her mandate with a focus on marginalized groups, using discrimination as a lens to view the prevailing human rights situation. The mandate holder identified women and indigenous peoples as the focus of her second mission. The present report describes her initial findings during both missions. The Special Rapporteur is grateful to the Government for its welcome and full cooperation during her two missions.

3. The Special Rapporteur was welcomed by the Prime Minister of Cambodia, Samdech Akeak Moha Sena Padey Techo Hun Sen, and met with a number of members of the Government and stakeholders, including civil society organizations, the United Nations country team and development partners. During the year under review, she also the Deputy Prime Minister and Minister of the Interior, Samdech Kralahom Sar Kheng, the Deputy Prime Minister and Minister in Charge of the Council of Ministers, Sok An, the President of the Senate, Samdech Vibol Sena Pheakdey Say Chhum, the Chair of the Cambodian Human Rights Committee, Mak Sambath, the Minister for Education, Youth and Sports, Hang Chuon Naron, the Minister for the Environment, Say Sam Al, the Minister for Justice, Ang Vong Vathana, the Minister for Labour and Vocational Training, Ith Samheng, the Minister for Rural Development, Chea Sophara, the Acting President of the National Assembly, Nguon Nhel, the Minister for Culture and Fine Arts, Phoeung Sackona, the Senior Minister and Minister for Land Management, Urban Planning and Construction, Im Chhun Lim, the Secretary of State, Ministry of Women's Affairs, Hou Samith, the Chair First Commission on Human Rights, Complaints and Investigations of the National Assembly, Eng Chhai Eang, and other members of the Commission, the Chair of the First Commission on Human Rights, Complaints and Investigations of the Senate, Senator Kong Korm, and other members of the Commission, and the President of the National Election Committee, Sek Bunhok, and other members and staff of the Committee.

II. General situation of human rights

4. The Government of Cambodia has reported successes in meeting the Millennium Development Goals.[1] It is noteworthy that Cambodia added a ninth goal, on demining and removing explosive remnants of war and victim assistance. Cambodia has reduced the official poverty head-count (13.5 per cent in 2014) and the incidence of maternal mortality, increased the rate of primary school enrolment, and reduced the infection rate of HIV, malaria and tuberculosis. The rate of economic growth continued at 7 per cent in 2015; the launch of the Association of Southeast Asian Nations (ASEAN) Economic Community in 2015 will offer further opportunities for economic growth and employment growth.

5. The benefits of developments have not, however, been enjoyed equally by all sectors of society. The fact that continued efforts are needed to reach the most vulnerable sectors of

[1] Royal Government of Cambodia, End Country Report on Achieving Cambodia's Millennium Development Goals 2003-2015, Ministry of Planning, Phnom Penh, November 2015.

society is shown by the comparative lack of significant progress in attaining indicators and targets on child labour and malnutrition, gender equality, basic sanitation and environmental sustainability (particularly in rural areas). Growing income disparities render those just above the poverty threshold particularly vulnerable. Looking forward, the Government has indicated that initial strategies for addressing the Sustainable Development Goals will be concluded by the end of 2016.

6. During the period under review, a number of laws adopted, and others apparently being drafted, will and may have implications for the protection and promotion of human rights. There has also been a raft of arrests, detentions, charges and convictions against members of political parties and civil society. Viewed together, these developments suggest that the law is increasingly being used to restrict the democratic space in the country.

7. The political situation has implications for the protection and promotion of all human rights in the country. The period under review began with the agreement on a "culture of dialogue" between the Cambodian People's Party (CPP), the ruling party, and the Cambodia National Rescue Party (CNRP), the largest opposition party, in effect but under stress. On 22 October 2015, two members of the CNRP were attacked by a large crowd just outside the gate of the National Assembly. In May 2016, three men identified in court as members of the Prime Minister's bodyguard unit were convicted on related charges.[2] Several senior members of the CNRP, including Members of Parliament who had had their parliamentary immunity revoked, had charges brought against them or have cases pending: CNRP President Sam Rainsy left Cambodia in 2015 and remains overseas following the resurrection of historic cases against him; charges of defamation or attempts to bribe a witness have been lodged against CNRP Vice President Kem Sokha and members of civil society (also against a United Nations human rights official);[3] and a CNRP-nominated member of the National Election Committee may yet face trial in connection with a demonstration held on 15 July 2014.[4] In its decision of 23 March 2016 on five cases concerning 12 CNRP parliamentarians, the Governing Council of the Inter-Parliamentary Union noted the "deteriorating political situation" in Cambodia.

8. The CNRP has withdrawn its participation in the National Assembly on several occasions, and relations between political parties have been tense. Such a situation has implications for the legislative process at a time when many important laws that have an impact on human rights are scheduled for discussion. Although the commune/*sangkat* elections are still one year away and the national election two, the political situation is already turning attention away from the many positive plans of action and strategies the Government is formulating and implementing. Many of these initiatives, including programmes on women's rights, education, the environment and land rights, are aimed at enhancing the protection and promotion of human rights. Without genuine conciliatory efforts by the two main political parties to re-establish the culture of dialogue in an atmosphere of mutual respect, the situation of human rights in Cambodia could well deteriorate further in the months ahead. All elected leaders have a responsibility to act in the interests of those whom they represent, and to work together to safeguard national peace and public order, rather than fuel civil unrest through divisive actions and rhetoric.

9. With regard to one issue raised orally before the Human Rights Council at its thirtieth session - the Prey Speu Social Affairs Centre, now renamed a drop-in centre - people, including children and vulnerable adults with medical needs and psychosocial

[2] Three members of the unit were convicted in May 2016 in connection with the attacks.

[3] All except Mr. Sokha and the United Nations official are currently in pretrial detention.

[4] In July 2015, 11 members and supporters of the CNRP were convicted of offences in connection with the demonstration.

disabilities, are regularly rounded up in the streets and held in poorly equipped facilities. Many are neither homeless nor without family. The Special Rapporteur notes the recent announcement by the Prime Minister that the drop-in centre should be made functional or be closed, and concurs with him, while urging the release of those persons being held against their will and the establishment of a properly equipped and funded social affairs centre capable of providing appropriate assistance to persons claiming need.

III. Vulnerable groups and discrimination

10. International human rights are predicated on the premise that all persons should enjoy all freedoms and rights without discrimination. In all societies, however, there are marginalized groups whose enjoyment of rights is compromised in some way, such as minorities, indigenous peoples, persons with disabilities, women, children, intersex, transsexual, gay and lesbian persons, or those making life choices that are not mainstream in the country in which they live. Sustainable Development Goal 10 is aimed at reducing inequality within countries. Marginalized persons are often vulnerable to discrimination on multiple grounds; grounds of vulnerability in fact often intersect to create a particular disadvantage for an individual. This can be problematic for legislation predicated on a single ground, without cognisance of the aggravated disadvantages suffered owing to multiple grounds. Discrimination on any ground is a legitimate concern when promoting human rights in an equitable, fair society. It is a tool that can be used to limit the enjoyment of human rights by individuals and groups within society. International law clearly states that rights and freedoms should be enjoyed without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, sexual orientation, gender identity, disability or other status. The Government of Cambodia has voluntarily agreed to be bound by many international treaties that enshrine this principle.[5]

A. Indigenous peoples

11. Cambodia is home to some 455 indigenous communities, which identify themselves in 24 groups, numbering approximately 179,000 people (1.34 per cent of the population). The communities are often isolated geographically, a fact that poses infrastructure challenges for the Government when providing such essential services as health care and education. The Government voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples, and adopted a national policy on the development of indigenous peoples in 2009. Various ministries have specific plans of action and policies regarding indigenous peoples. The Special Rapporteur was indeed struck by the high level of awareness of indigenous rights among government ministers and, at the provincial level, by the governor in Stung Treng province. Transforming good intentions into positive action can, however, be fraught with challenges. Of particular importance is the need to engage effectively with indigenous peoples. In 2014, the Special Rapporteur on the rights of indigenous peoples observed that involving indigenous peoples at the outset in planning would go a long way in speeding up implementation and avoiding conflicts about how implementation is carried out, even though it was a step often overlooked (A/HRC/27/52, para. 19). Adhering to this advice could obviate many current problems, ensuring a voice for indigenous people and greater "buy-in" to government policies. A holistic approach is

[5] The Special Rapporteur points out that, during her first mission, the Government highlighted issues relating to persons of Vietnamese ethnicity. See CCPR/C/KHM/CO/2, para. 8.

inevitably best to address the diverse and interconnecting issues characteristic of the rights of indigenous peoples.

12. Many indigenous groups in Cambodia have no written language, only an oral culture. During a meeting in March 2016, the Minister for Culture and Fine Arts outlined the measures being taken to capture traditional languages and preserve them digitally. While it is commendable and arguably necessary to transcribe non-written indigenous languages, there is a fine line between preservation and assimilation; care must be taken to work with indigenous groups to ensure the maintenance of their culture and languages in a manner which is acceptable to them. The inclusion of indigenous – as well as Khmer – culture and cultural traditions in the school curriculum is important for all children. The Special Rapporteur is aware of the difficulties encountered when a Government tries to protect or preserve aspects of cultural rights, but recalls that it is for indigenous peoples themselves to decide if they wish to change their traditional practices.

13. The multilingual education plan of action launched by the Government in 2016 seeks to build on earlier programmes of bilingual education for indigenous and ethnic minority children. Earlier versions were commended by the Committee on Elimination of Racial Discrimination (CERD/C/KHM/CO/8-13, para. 20). Building infrastructure through community schools, the Government hopes to secure bilingual education for the initial stages of primary level study. The plan should be encouraged and supported with adequate funding. The Special Rapporteur is well aware of the challenges of not only building schools in many areas but also of securing trained bilingual teachers and appropriate teaching and learning resources in indigenous languages. A general (adult) literacy programme is also being implemented by the Ministry of Education, Youth and Sports in rural communities. For indigenous peoples interacting with government (including provincial) authorities, Khmer is usually the lingua franca. This has implications for the realization of all rights, not least land rights.

14. The management of land is an issue of particular concern to indigenous peoples. Like many of the world's indigenous peoples, Cambodian indigenous peoples frequently live in a close relationship to the land, including rivers and forests. As Cambodian society engages in rapid development, in conjunction with population expansion, there are inevitably tensions over land.

15. Indigenous peoples can benefit from the system of communal land titling developed by the Government and promulgated by the Land Law (2001). Article 23 of the Land Law offers a legal definition of indigenous peoples, which acknowledges the cultivation of land according to customary rules of collective use. Recognition of these collective communal land titles requires three principal, sequential stages: communities must be recognized by the Ministry of Rural Development as indigenous communities; recognized communities must then be registered with the Ministry of the Interior as legal entities; and communities thereby registered must apply to the Ministry of Land for registration of their communal land title. At the provincial level, there are steps necessary for each of the foregoing stages; for example, determining the extent of land claims. The registration process can be cumbersome for indigenous peoples owing to the costs involved (a communal land title can cost as much as $70,000), the length of time for completing the process, a lack of awareness of the process, and difficulties in fully engaging with the process because of language and cultural issues. Communal land titles often take several years to process, from the initial recognition of the group to the awarding of the title, leaving indigenous land in the meantime vulnerable to encroachment by various parties. Indeed, applications for land use or titles by private parties may proceed faster than the applications of indigenous communities. During her mission in March 2016, the Special Rapporteur received information on delays at the provincial level that precluded the completion of preliminary

documentation at the various stages of the process outlined above, contributing to delays at the ministries.

16. As at May 2016, 118 indigenous communities had been recognized as such by the Ministry of Rural Development; 90 were recognized as legal entities by the Ministry of Interior, although only 11 communal land titles had been issued. During their meeting, the Minister indicated to the Special Rapporteur that titles for 14 more communities were pending and that the Ministry's goal was to have 50 titles awarded to indigenous communities by 2018. If implemented as intended, this would mark a notable and welcome acceleration in the process. The Special Rapporteur understands the challenges faced by States in delineating indigenous land, particularly when many indigenous peoples engage in rotational and slash-and-burn farming practices. The Special Rapporteur is aware of the challenges delineating land concessions and land claims. She was informed by the Ministry of Land Management of developments in using trees, poles and microchips to demarcate boundaries more effectively, even though the lands used by many indigenous peoples are still not demarcated. Areas of land, river and especially forest can have strong spiritual connections. Many Cambodian indigenous peoples have "spirit forests" that may be distant from their current village. Communities may not understand the legal issues concerning access to disparate areas of land and the need for securing transit zones, resulting in tensions between communities and businesses.

17. Particular challenges arise when land titles cannot be granted. In March 2016, the Special Rapporteur visited Stung Treng province and the site of the Lower Sesan II hydropower dam. She met with the communities affected, both in their traditional villages and in a new resettlement site. The dam, one of a series and expected to contribute to the State's growing energy needs, is a high-priority government project. Although hydropower projects might be considered a "clean" energy solution, they inevitably have a substantial impact on the adjacent land and the peoples that inhabit them. In this instance, the dam will stretch over several kilometres and have an impact on the Mekong waterway, particularly along the Sesan and Srepok tributaries, damming the lower level of the Sesan River. An environmental impact assessment undertaken on the project identified the economic and social impact of the project, in particular on the right to a safe, clean, healthy and sustainable environment. Six villages, including those with indigenous peoples, will have to be relocated in advance of the flooding of the reservoir in 2017. Adequate consultations are necessary to ensure free and prior informed consent of communities for resettlement, even if resettlement is ultimately unavoidable. The actual content of the compensation packages offered did not appear to be fully understood by some of the villagers with whom the Special Rapporteur met, even though the authorities have worked to provide land, housing, health, education and transitional financial and food support. In one instance, the communities and authorities agreed that the land at the resettlement site was not of appropriate agricultural quality. The authorities then agreed to alternative land selected by the communities affected, albeit some 20 km from the resettlement site. Problems remain for indigenous peoples, however, such as the loss of burial grounds or spiritual forests. Some peoples indicated a preference to remain on their original land, even in floating houses, if necessary, in order to remain in proximity to their traditional lands. The viability of such an option does not appear to have been presented to or considered by the authorities. There is a clear need for adequate consultation with affected communities: sufficient time, good translation, more sensitivity to cultural practices and more consideration of the feasibility of alternatives suggested by the community members themselves.

18. During her field trips to Stung Treng and Preah Vihear provinces, the Special Rapporteur was particularly struck by the number of women attending meetings to raise their concerns over land and cultural rights, in particular usufructuary rights, education, the freedoms of religion and belief, and burial issues were particularly prominent concerns. In

2015, the Special Rapporteur on the rights of indigenous peoples concluded that indigenous women and girls experienced complex, multidimensional and mutually reinforcing human rights violations (A/HRC/30/41, para. 73). In Cambodia, a holistic analysis of indigenous women's experiences has yet to feed in to policies and plans on indigenous rights.

B. Women

19. In Cambodia, one often hears reference to the traditional high regard with which women are held; this very regard may, however, restrict women in the equal exercise of their rights. Although striking a balance between protecting women and ensuring equality of access to and enjoyment of human rights can be a challenge in many States, the treaties that Cambodia has ratified are clear: women must be guaranteed equal rights. This is the case irrespective of the protective, even patriarchal, aim of traditional "special treatment". Gender stereotyping, particularly within the family, remains common in Cambodia, as several government ministers and other stakeholders confirmed. Accordingly, traditional norms can limit choices and influence decisions. Sustainable Development Goal Target 5.1 is aimed at ensuring an end to all forms of discrimination against all women and girls (see also A/HRC/26/16, paras. 118.49-56).

20. In education, statistics reflect considerable improvement in the enrolment and retention of girl children at school. The Ministry of Education, Youth and Sports has worked with other stakeholders to secure near universal primary enrolment. Efforts should now be made to improve secondary enrolment and completion, and to ensure safe and acceptable tertiary-level opportunities for women, especially outside of the cities.

21. Employment continues to be characterized by gender divisions; for example, more women than men work in the garment sector. One of the more regulated sectors, the garment industry has strong trade unions and generally higher levels of regulation (including of pay and conditions) than other sectors. There have been many successes in improving working conditions and practices; the Better Factories Cambodia campaign conducted by the International Labour Organization is an example now being exported elsewhere in the region. During a meeting with garment workers near Phnom Penh, however, the Special Rapporteur was struck by the poor living conditions of the women she met and the low net salaries they earned, a concern shared with the Committee on the Elimination of Discrimination against Women (see CEDAW/C/KHM/CO/4-5, para. 35). Other sectors can, however, be even worse, hence the distances travelled and sacrifices made by many women to take up employment in the garment sector. The comparative perceived advantages of working in garment factories near the capital draw women from many rural provinces. Mothers often leave their children with family members in their home province, remitting monies for support, and returning only during holidays, with implications for the rights of the child, as well as for the woman herself. The costs of accommodation,[5] health care,[6] nutritious food and clean water affect the net salaries earned. Nonetheless, for many women, especially in rural communities, these jobs are viewed as a route out of poverty. Ending poverty is Sustainable Development Goal Target 1. The Government should work with businesses to ensure adherence to the Guiding Principles on Business and Human Rights across all sectors.

22. As Cambodian society is embarking on an electoral process, it is logical to examine the role of women in politics. Very few women occupy high political offices in Cambodia. There are only 23 women in the National Assembly (out of 123), and 11 in the Senate (out

[5] Traffic accidents during commutes are frequent, an issue that the Government is beginning to address. Sustainable Development Goal 11, target 2 addresses safe, affordable, accessible transport systems and improvements in road safety.

of 58). While the proportion of women is larger at the local level, it is nevertheless clear that, statistically, women are underrepresented in politics. The number of female secretaries and undersecretaries of State is increasing;[7] more women are thereby gaining the experience and skills required for higher political office. All political parties should consider increasing the number of women on electoral lists and working to address the hidden barriers limiting the number of women standing for election. The Special Rapporteur reminds the Government that article 4 of the Convention on the Elimination of All Forms of Discrimination against Women permits temporary special measures to redress imbalances, and that the Committee on the Elimination of Discrimination against Women has twice recommended temporary special measures to increase the representation of women in decision-making positions, especially in politics, the judiciary and the foreign and diplomatic service (see CEDAW/C/KHM/CO/4-5, para. 29 and CEDAW/C/KHM/CO/3, para. 14).

23. During the mission of the Special Rapporteur in March 2016, violence against women emerged as a topical issue.[8] Although government ministries suggested that domestic violence had decreased, no official statistical information confirmed this, even though all stakeholders agreed that it remains a problem. The Committee on the Elimination of Discrimination against Women made several recommendations in this regard following its consideration in 2013 of the State's fourth and fifth periodic reports (see CEDAW/C/KHM/CO/4-5). In particular, the Committee recommended that the Government intensify efforts to train judicial officers and law enforcement officials on the law on the prevention of domestic violence to ensure effective prosecution of cases of violence against women rather than the hitherto systematic use of mediation. The Special Rapporteur reiterates that recommendation. In too many instances, cases of violence against women, including rape and domestic violence, are resolved exclusively through informal justice systems at the local level. While the law on the prevention of domestic violence only permits mediation in cases that are not criminal, the Government acknowledges that mediation is commonly used, resulting in many victims of domestic violence returning to live with an alleged perpetrator who has not been criminally investigated or prosecuted. Mediation and informal mechanisms can result in the retraumatization and degradation of the victim, who may then find herself still living with the perpetrator. Further physical and mental violence is possible. Safe houses offering protection and recovery are needed to offer a safe escape option for victims of domestic violence.

24. Eradicating violence against women, which continues to be a pervasive human rights violation in Cambodia, requires a multi-sectoral response. A revision of the current law on the prevention of domestic violence and victim protection is of the utmost importance to ensure conformity with international standards. Women who have suffered sexual and gender-based violence and wish to bring the alleged perpetrators to justice face many barriers. As a result of the general lack of gender sensitivity of law enforcement and judiciary personnel when dealing with victims of sexual assaults and crimes, a culture of silence prevails; very few cases actually reach the courts. Strengthening judicial mechanisms that protect victims' rights, ensuring the fair prosecution of alleged perpetrators, and developing gender-sensitivity training for law enforcement officers and the judiciary are crucial steps in addressing these issues. While the Government is undoubtedly aware of the problem and is to be commended for developing a cross-ministerial response, urgent work is required to de-stigmatize domestic violence and to encourage reporting of all violence. Law enforcement officials must also be trained in

[7] Royal Government of Cambodia, End Country Report (see footnote 1).

[8] Target 5.2 of the Sustainable Development Goals is on eliminating violence against women and girls in public and private; see also A/HRC/26/16, paras. 118.62, 118.63 and 118.65.

dealing sensitively with persons claiming to have been victims of domestic violence, and more women officials should be trained and deployed in provinces, especially at the local level.

25. A number of steps are needed to enable all victims of gender-based violence to feel sufficiently confident to report offences: repeated condemnation of offences at the highest levels of government, and repeated public commitments to prosecute perpetrators of such crimes; dissemination to the public (including school children) of information on gender-based violence and on the criminal law on sexual offences, using all forms of media and social media; and cooperation between government institutions and women's networks to improve reporting on cases of gender-based violence and to ensure that cases are investigated and perpetrators prosecuted, without repercussions for the victim. Such steps will help to de-stigmatize victims and, alongside appropriate support, encourage reporting and increase the rate of prosecutions. Taken with the public education programme, they should deter attacks and increase respect for women, thereby contributing to the achievement of Sustainable Development Goal 5. Both the Committee on the Elimination of Discrimination against Women (in its general recommendation 19 (1992)) and the Special Rapporteur on violence against women, its causes and consequences (see A/HRC/32/42) offer support and advice to States on eliminating violence against women.

26. Women and children continue to be trafficked from Cambodia to foreign countries for domestic labour and sexual exploitation. The Special Rapporteur is aware of the efforts made by the Government to regulate some aspects of migration, by the Ministry of the Interior to combat trafficking, and by the Ministry of Labour and Vocational Training pursuant to the memoranda of understanding with countries receiving large numbers of Cambodian migrant workers. Although there are laws in place that criminalize trafficking, the Government should intensify efforts to combat trafficking. Increasing effective investigation and prosecution of those allegedly involved in trafficking would send the message that trafficking in human beings is not acceptable in Cambodian society. There is also a need for greater monitoring of migrant domestic workers, their recruitment, their treatment overseas and their repatriation, as noted by the Committee on the Elimination of Discrimination against Women (CEDAW/C/KHM/CO/4-5, para. 25). Victims of trafficking, exploitation and abuse also require support ex post facto to facilitate their reintegration into normal life or in the establishment of a normal life.

27. The Special Rapporteur expresses her concern at evidence she received of the degradation of women in the media, including social media. The photographs of dead or seriously injured victims of domestic violence should not be circulated. The Special Rapporteur recommends that courts apply the relevant provisions of the Criminal Code when women, especially victims of sexual assault and violence, are graphically depicted. The press and the users of social media also have a responsibility to respect women, especially vulnerable women. In this regard, the Government has agreed to raise awareness of the rights of women, including among journalists (see A/HRC/26/16, para. 118.64). There is a growing tendency in social media and popular discourse to stereotype women on the basis of their work. This is particularly the case for women working in the entertainment industry. The Special Rapporteur therefore welcomes the steps taken by the Ministry of Women's Affairs and the Ministry of Labour to address such situations.

IV. Evaluating the democratic space

28. The democratic space has been reduced in Cambodia through the application of a range of laws restricting the freedom of expression, the rights to freedom of peaceful assembly and association and the restriction of a range of legitimate activities of non-governmental and civil society organizations. In July 2015, a law on non-governmental

organizations was adopted and came into force (see A/HRC/33/32, KHM 2/2015). Cambodia has a plethora of non-governmental organizations and civil society bodies, from local grass-roots organizations to national, regional and international entities. The flourishing of civil society has been regarded as a major success in post-transition Cambodia that has made an enormous contribution to the development of the country. Protecting fundamental freedoms is target 16.10 of the Sustainable Development Goals.

29. The law on associations and non-governmental organizations has laid down registration and re-registration requirements for organizations. While requirements of this type will help to regularize the situation of hundreds of organizations working in Cambodia, the authorities could potentially refuse registration or re-registration, with adverse implications for the organization concerned. The law in question is one of a series of recent laws that could be applied in a way that makes it more difficult for independent bodies to act on human rights issues. The law on the election of members of the National Assembly, adopted in 2014, criminalizes political campaigning and public opinion polling outside a defined campaigning period; the law on telecommunications adopted in 2015 requires telecommunications companies to turn over certain data to the Government upon request; while the law on trade unions of 2016 precludes individuals convicted of a crime from leading a trade unions; significantly, many independent trade unions are led by persons convicted on, or currently under threat of, charges relating to their work in defence of workers' rights. A detailed analysis of each of these laws by OHCHR in Cambodia, non-governmental organizations, trade unions, and others reveals the scope for infringing human rights. Like in the case of many laws, the degree of compliance with international human rights laws lies in the interpretation and application of the law by law enforcement and judicial officials. Clear implementation guidelines reflecting prevailing international human rights should be carefully drafted and disseminated in order to ensure that the law is applied in a manner that regulates without unnecessarily restricting the activities of civil society bodies, trade unions and human rights defenders. The Special Rapporteur recommends that the Government ensure that these laws are applied in a way that respects fully the human rights treaties that Cambodia has ratified. Moreover, the application of such laws should be regularly reviewed (and is already to an extent by civil society bodies) to permit timely revision, if required.

30. The Special Rapporteur received information on training activities, local-level meetings and informal discussions stopped by law enforcement officials or subjected to district or provincial approval not required by law. The law on peaceful demonstrations, which was cited as justification in many such situations, is subject to a set of guidelines – developed by the Ministry of the Interior in cooperation with OHCHR in Cambodia and a number of civil society organizations – to ensure compliance with applicable international standards. Unfortunately, the guidelines have not been sufficiently widely disseminated to achieve that result. It is essential that all local and provincial level authorities gain familiarity with the correct application of the law through the dissemination of the guidelines.

31. Freedom of expression is explicitly protected in article 41 of the Constitution of Cambodia (article 31 of which recognizes the International Covenant on Civil and Political Rights). It was, until recently, a characteristic of Cambodian society, contributing to open debate and discussion. According to article 19, paragraph 2 of the International Covenant on Civil and Political Rights, freedom of expression is subject to certain well-defined restrictions. In Cambodia, an ever wider range of laws are being used to impose restrictions, causing concern for a range of stakeholders, including human rights defenders, non-governmental organizations and civil society. There have been communications from special procedures related to this (see for example A/HRC/32/53). Provisions of the Criminal Code that can restrict freedom of expression include articles 305 (defamation), 307 (public insult of members of the Government), 311 (malicious denunciation), 424

(threat to destroy accompanied by an order) and 456 (insurrection). Information received on arrests, investigations and court proceedings over the past year indicated that many of the provisions and other laws are being invoked in a discriminatory manner, giving the impression of restrictions applied in furtherance of political objectives. The Government should monitor how the laws are applied: systematically recording and publishing cases should provide credible information.

32. In a report submitted to the Human Rights Council at its twenty-sixth session, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression focused on freedom of expression in an electoral context. He warned against the adoption of laws to control or regulate political speech immediately before and during elections, and gave an example of the criminalization of "online slander or insults" and the selective interpretation and enforcement of existing laws (A/HRC/26/30, paras. 38-40). The Government of Cambodia must ensure that all laws are applied without distinction to political opinion, giving effect to freedom of expression in accordance with article 2 of the International Covenant on Civil and Political Rights. The Human Rights Committee recommended that the Government consider decriminalizing defamation and reviewing the other sections of the Criminal Code to bring them into line with article 19 of the Covenant (see CCPR/C/KHM/CO/2, para. 21(c)).[9] According to the Committee, freedom of expression is important to the realization of the rights to political participation and to vote (see CCPR/C/GC/34, para. 20 and CCPR/C/21/Rev.1/Add.7). The Committee has also pointed out that Heads of State and Government are legitimately subject to criticism and opposition, and that the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties (CCPR/C/GC/34, para. 38). Great care must therefore be taken when articles 305 to 312 of the Criminal Code of 2009 are applied. The Special Rapporteur suggests that the Government consider reviewing the necessity of these criminal provisions in the light of the application of the International Covenant on Civil and Political Rights. In the meantime, implementing guidelines could assist law enforcement officers and members of the judiciary in applying laws on defamation, public insult and malicious denunciation to ensure that an appropriate balance is struck in favour of freedom of expression.

33. Another concern raised by stakeholders concerns the monitoring of and restrictions on the use of the Internet. The number of Internet users has continued to grow exponentially in Cambodia. Although statistical information varies, it appears that more than two fifths of the population regularly use the Internet. With the predominance of Facebook as a means of social interaction, activism and communication, a number of senior government officials, not least the Prime Minister, now author official Facebook pages. Article 19 of the International Covenant on Civil and Political Rights protects freedom of expression through electronic and digital means (see CCPR/C/GC/34).[10] As affirmed also by the Human Rights Council in its resolution 20/8. Particular care should therefore be taken to ensure respect for freedom of expression when arresting, detaining and prosecuting those posting materials on social media.

34. The Special Rapporteur understands that laws on cybercrime are currently being drafted, and urges dissemination of the drafts, when available, for meaningful discussion with stakeholders on the nature and scope of proposed regulations. Public dissemination of draft laws is necessary to ensure greater transparency in law-making and to allow consultation and consideration of the compatibility of proposed provisions with

[9] See also A/HRC/26/16, paras. 118.15-16, 118.20-21 and 118.102.
[10] Ibid., para. 118.103.

international human rights (see A/HRC/18/46, para. 74).[11] The Special Rapporteur has raised this issue with Members of Parliament on several occasions.

V. Education

35. Education plays a key role in the development of Cambodia. It can take multiple forms: from securing literacy and numeracy of all children to giving young Cambodians the knowledge and skills required to meet the demands of the labour market and attain Sustainable Development Goal 8, to ensuring that the population has a good understanding of the forthcoming elections. Education in conformity with the treaties demands human rights education. All Cambodians should be aware of the treaties on rights and freedoms that the State has ratified and have been enshrined in the Constitution. Human rights education requires education to be about, through and for human rights.[12] Good education requires well-trained teachers, high-quality resources and equality for all. Cambodia has indicated its willingness to ratify the UNESCO Convention against Discrimination in Education (see A/HRC/26/16, para. 118.9-11).

36. The Special Rapporteur was informed about an ambitious programme of reform that should raise the quality of education in the country and allow closer compliance with articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, as well as contributing to the realization of Sustainable Development Goal 4. The Special Rapporteur welcomes the progress made in a number of initiatives, including eliminating widespread cheating in school examinations, increasing teachers' salaries as a way to curb unofficial "additional payments" from families, and building additional schools to make education accessible to all. Teacher training is also being reviewed in order to ensure the consistent quality of teachers and teaching standards. The Special Rapporteur suggested that the prescribed curricula reflect human rights fully, and accepted a suggestion by the Minister for Education, Youth and Sports that she assist in reviewing the curriculum to ensure compatibility with human rights education principles and reflect the rights of women, girls, disabled persons, indigenous peoples and other marginalized groups.

37. A moratorium on the establishment of new universities remains in place in response to the recent unregulated expansion of tertiary-level institutions. The Government remains focused on strengthening the quality of higher education and aligning content with identified labour needs.

VI. Land rights and housing

38. Land rights remain a major issue of concern in Cambodia, despite the ongoing efforts of the Government to review economic land concessions, including some cancellations. Many of the problems faced by the Government today stem from the previous almost unfettered granting of land concessions, often before all claims to the land had been settled (see A/HRC/21/63/Add.1). Even when concessions are cancelled, it is not necessarily apparent who is entitled to the land returned. Although the previous mandate holder made land rights the focus of a thematic report (ibid.), many of his recommendations remain pending. Sustainable Development Goal 15 includes targets on reforestation and afforestation, as well as on sustainable land management.

[11] See also CCPR/C/KHM/CO/2, para. 25 and Sustainable Development Goal 16.

[12] See the United Nations Declaration on Human Rights Education and Training, the World Programme on Human Rights Education and Sustainable Development Goal 4.7.

39. It is imperative that land disputes be resolved definitively on clear and transparent grounds by appropriate bodies. Complaints are brought before courts and cadastral commissions, though also raised directly with others, including government officials and parliamentary bodies. This can result in a duplication of efforts and potentially conflicting decisions and solutions. It also burdens the more vulnerable communities, who may have to travel long distances to appeal to these bodies. The Special Rapporteur received hundreds of petitions relating to land issues, especially during her mission in March 2016. Many of the complaints related to matters that had already been raised before judicial and non-judicial bodies and senior government ministers, including the Prime Minister. According to the Government, it is for the courts to decide disputes once a title is granted (see A/HRC/26/16, para. 116).

40. As an example of the complexity of the current situation, in March 2016, when meeting in Preah Vihear province with a representative of the Rui Feng sugar concession company, the Special Rapporteur was informed about the company's concerns with regard to land it believed had been demarcated for its business. Kui indigenous communities in the area claimed that their traditional lands had been encroached upon, even though they had completed the first two stages of land titling and had been recognized by the Ministry of the Interior. The company expressed its willingness to work with local communities to find a solution. In that instance, four contiguous land concessions were granted for sugar plantations and a fifth for a major sugar processing plant. The company informed the Special Rapporteur that, in accordance with the terms of its agreement with the Government, all the sugar produced was for export (approximately two thirds to Europe, the remainder to China). At the time of the mission, sugarcane was being planted on some 42,000 hectares, though more will be required from local farmers when the mill reaches capacity. Although the company reported having planted only in the area marked as government land on the map it received and thus within the concession, it has encountered numerous protests over the years without resolution. The company was working on an ambitious project supporting many initiatives in the province (inter alia, repairing temples, developing health-care and education facilities for workers, and purchasing fire engines for the province), but claimed to be struggling to negotiate at the local level with the communities affected. There is work to be done by all stakeholders to ensure compliance with the Guiding Principles on Business and Human Rights, as well as the United Nations Declaration on the Rights of Indigenous Peoples.

41. Particular issues arise when land rights are traded off against energy needs. Cambodia currently imports energy from surrounding States, and the Government rightfully wishes to ensure energy sustainability. Sustainable Development Goal 7 is aimed at ensuring universal access to affordable, reliable and modern energy services. Given the expanse of the rivers in the region, hydropower has been identified as a preferred option in Cambodia, as well as in surrounding States. Nevertheless, hydropower has an impact on land rights. Building dams, flooding areas and controlling water flows inevitably affect natural ecosystems, and also the livelihoods of the people inhabiting neighbouring land. Although compromises will be required, the Special Rapporteur is of the opinion that more thorough consultations with those directly affected could ease the impact of development.

42. During the period under review, resettlement continued to be a problematic issue. During both her missions, the Special Rapporteur visited resettlement sites and met with people resettled from land concessions in Koh Kong and Stung Treng. A number of common issues emerged with regard to the appropriateness and sustainability of resettlement sites, including the quality of accommodation, access to infrastructure, and the availability of appropriate work or sources of income. Problems arise when, for example, villagers with a tradition of rice farming are resettled in an area without appropriate rice-growing soil, or when villagers with a tradition of fishing are resettled inland. The Special Rapporteur was appreciative of the holistic approach advocated by the outgoing Minister

for Rural Development (now Minister for Land Management, Urban Planning and Construction) and the Governor of Stung Treng.

43. There are a number of ongoing housing issues beyond those outlined on resettlement. The Government has benefited from the recommendations made by the Committee on Economic, Social and Cultural Rights (see E/C.12/KHM/CO/1, paras. 29-30) and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (see E/CN.4/2006/41/Add.3, para. 82). These recommendations also build towards Sustainable Development Goal 11. The adequacy of housing remains problematic, particularly in the case of housing for persons with a lower income.[13] The Special Rapporteur is aware that the large-scale movement of workers to be near places of employment (for example, construction zones or garment factories) puts particular pressure on the availability of affordable, quality housing. For this reason, ensuring that existing laws and policies guaranteeing the availability of adequate housing and that workers have an adequate standard of living are implemented is especially important.

VII. Administration of justice

44. During both missions, the Ministry of Justice outlined to the Special Rapporteur the reforms currently under way. The Special Rapporteur acknowledges the amount of work required to implement the changes needed to reform administration of justice to bring it into compliance with treaties, including the International Covenant on Civil and Political Rights (see A/HRC/15/46 and A/HRC/26/16, paras. 118.79-90). The Ministry of Justice has continued its efforts to implement the three fundamental laws on the judiciary adopted in 2014, focusing its attention on the law on the organization and functioning of the courts. While the Ministry of Justice is currently engaged in certain areas of reform, there is mounting pressure for more immediate and apparent results from the reform process.

45. The independence of the judiciary, both actual and apparent, remains a concern (see CCPR/C/KHM/CO/2, paras. 19-20 and CAT/C/KHM/CO/2, para. 13). At present, the judiciary is widely considered to be closely affiliated with the executive and legislature, despite the provisions of articles 51 and 128 of the Constitution. There have been a number of instances of senior government ministers commenting publicly on matters still under investigation or sub judice. Most recently, in April and May 2016, several government departments issued statements calling for the investigation and prosecution of specified civil society actors and United Nations officials. Such actions undermine public perception of the independence of the judiciary with regard to the executive. A strong and independent judiciary able to administer justice in a fair and transparent manner is imperative. Sustainable Development Goal 16.6 requires effective, accountable and transparent institutions.

46. The previous mandate holder made a number of recommendations for developing and strengthening the independence of the judiciary (see A/HRC/15/46), many of which have yet to be addressed. The Special Rapporteur commends those recommendations to the Government once more for detailed consideration and implementation as part of its reform agenda.

47. Challenges remain in determining statistical information on cases. For this reason, the Government should consider establishing a system for systematically recording and reporting cases, building on its evolving case registration and management system.

[13] See general comment No. 4 (1991) of the Committee on Economic, Social and Cultural Rights, para. 8.

Publication of decisions online with a summary of reasoning would undoubtedly strengthen the judicial process in Cambodia by rendering judgments more transparent. Moreover, understanding the legal reasoning behind judicial decisions will allow the public to develop more informed views about the independence (or lack thereof) of the judiciary and the consistency of judgments. It would also be a useful resource for students and those studying for admission to the professions.

48. The Special Rapporteur notes several positive measures taken during the past year, notably the increase in salary for judges and prosecutors and the effort of the Ministry of Justice to work with the Anti-Corruption Unit to monitor qualification exams for judges and prosecutors, which may help to redress the lack of transparency and apparent consistency of process in the training, recruitment and discipline of judicial officials. The Special Rapporteur recommends that, in order to strengthen transparency, the salaries of judges be reviewed annually and made public. Similar work is required on prosecutors.

49. Everyone using the judicial system encounters a range of requests for payments related to lodging complaints, filing documentation, copying materials and other work by court clerks. Although many fees are fixed, they may vary considerably and therefore have an impact on equality of access to justice. The Special Rapporteur recommends that the approved schedule of fees and any permitted additional payments be publicly displayed in all courts and at court clerk offices to eliminate unofficial overpayment. In this way, elements of corruption could be eliminated, while the actual and perceived independence of the system would be strengthened.

50. At present, most people arrested are held in pretrial detention. Accurate statistics are apparently not available, given that cases are not systematically recorded. The Ministry of Justice confirmed, however, that pretrial detention is the normal practice. In its general comment No. 35 (2014), the Human Rights Committee noted that detention in custody of persons awaiting trial should be the exception rather than the rule (CCPR/C/GC/35, para. 38). Extensive use of pretrial detention compounds the challenges acknowledged by Cambodia on prisons (see CCPR/C/KHM/Q/2/Add.1, para. 14) and commented on by the Committee on overcrowding in prisons (see CCPR/C/KHM/CO/2, para. 14). Cambodian law provides for judicial supervision as an alternative to pretrial detention. Although the Special Rapporteur was informed about the cultural barriers to judicial supervision, she suggests the Government consider taking steps at the local level to support the expansion of judicial supervision for those charged with a minor crime. Even though pretrial detention is appropriate in some cases, its prevalence is difficult to justify from the viewpoint of international human rights law (see ibid.).[14] The Special Rapporteur suggests that consideration be given to greater use of judicial supervision as provided for in the Code of Criminal Procedure. When courts consider that pretrial detention is appropriate, a full trial should follow swiftly, consistent with the rights of defence, the presumption of innocence (see A/HRC/26/16, para. 119.20) and the Code of Criminal Procedure.

51. Three sets of cases are ongoing at the Extraordinary Chambers in the Courts of Cambodia. The appeal of case 002/01 against Nuon Chea and Khieu Samphan began in July 2015. The hearing of case 002/02, the second against both, began on 17 October 2014 on charges including genocide of Cham and Vietnamese minorities, forced marriages and rape. Cases 003 against Meas Muth and 004 against Im Chaem, Ao An and Yim Tith are progressing slowly. Investigations in these cases have gone ahead on the international side, without any cooperation from the national police in implementing orders. On 5 February 2016, case 004/01 was severed from 004 to expedite the trial process. As at May 2016, the financing of the Extraordinary Chambers was stable, with $32.3 million secured.

[14] See also CCPR/C/GC/35, paras. 36-38.

VIII. Participation in political process

52. Cambodia will hold local commune/*sangkat* elections in June 2017, after which commune councillors will elect the members of the Senate. Elections to the National Assembly are scheduled for 2018. The National Election Committee was reconstituted in 2015, comprising four representatives from each main political party with seats in Parliament and an independent representative of civil society. Its mandate focuses on the forthcoming elections.

53. During her mission in March 2016, the Special Rapporteur met with the members of the National Election Committee and enquired about the status of plans on voter registration. For the first time, an electronic process will be used, with the support of the European Union and Japan, whose main contribution will be providing equipment and technical expertise for issuing the new biometric identity cards to be used for voter registration. The task of registering and issuing cards is substantial: there are approximately 10 million Cambodians, and the voter list was among the controversial aspects of the election held in 2013. The Human Rights Committee has expressed its concern over the right to vote of convicted prisoners and persons with psychosocial disabilities (see CCPR/C/KHM/CO/2, para. 26). In addition, the Special Rapporteur was informed about the difficulties encountered, and likely to be encountered, by migrant workers, persons with disabilities, persons in pretrial detention, recently relocated persons and homeless persons in securing identity cards and registering to vote. Sustainable Development Goal target 16.7 promotes inclusive, participatory decision-making. It is imperative that the Government allocate appropriate funding and technical assistance to ensure that every eligible person has the opportunity to participate in the forthcoming elections, in accordance with article 25 (b) of the International Covenant on Civil and Political Rights. The voter list should be validated and registration completed expeditiously.

54. During a number of meetings with government ministers and senior members of the Senate and National Assembly, the Special Rapporteur raised the issue of increasing the diversity of representation in Parliament. More women, members of indigenous peoples, disabled persons and other marginalized groups could be represented in political decision-making bodies. The Special Rapporteur is aware of many of the real and perceived barriers to broadening participation; the treaties that Cambodia has freely accepted nevertheless describe the requirements of a fully representative democratic society. In this regard, voter and civic education programmes could assist in breaking down barriers by developing and deepening popular understanding of the role of commune/*sangkat* and National Assembly representatives. The National Election Committee indicated to the Special Rapporteur that it would welcome support for human rights education for voters. A better informed electorate will be able to more effectively exercise its right to political participation.

55. As noted above, there are specific concerns among many stakeholders with regard to the credibility of the 2017 and 2018 elections owing to the current political situation in the country. Should the political situation not be stabilized in an environment of respect for all human rights, such concerns will be justified.

IX. Treaty body reporting and the universal periodic review

56. Cambodia has a number of periodic reports due to the treaty bodies. The Special Rapporteur notes that reporting duties are spread among government ministries and specific bodies, and draw on a range of ministries and other stakeholders. Specific cross-government bodies oversee the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of All Forms

of Discrimination against Women. According to the information provided to the Special Rapporteur in March, the report to the Committee on the Elimination of Racial Discrimination, the follow-up report to the Human Rights Committee and the responses to the list of issues posed by the Committee against Torture should be submitted by the end of 2016. Meanwhile, the report to the Committee on Economic, Social and Cultural Rights is scheduled for submission in mid-2017. The Special Rapporteur also learned that the (optional) universal periodic review mid-term report is nearing completion and will be submitted in 2016. The Special Rapporteur strongly recommends that the Government develop a rolling timetable to ensure reporting requirements are met in a timely manner. This is particularly important when different entities – many cross-ministerial – lead on reports to treaty bodies. A clear timetable would also assist in ensuring involvement of civil society and other stakeholders in the preparation of reports.

57. Cambodia is a party to the Optional Protocol to the Convention against Torture. As such, it is required to establish an independent national preventive mechanism that is institutionally and financially independent of the Government. The current arrangement in place is intragovernmental, and therefore lacks the independence required. The Special Rapporteur was encouraged to learn from the Minister of the Interior that a ministerial working group had been created and tasked with reviewing the situation, in accordance with the Optional Protocol. She encourages relevant parties to take the opportunity to create a truly independent structure involving members of civil society. Cambodia should also consider publishing the two most recent reports of the Subcommittee on Prevention of Torture.

58. As at May 2016, the Memorandum of Understanding between the Government of Cambodia and the United Nations on the field presence of OHCHR had not been signed. Given the support provided by OHCHR to various government ministries and other stakeholders, this has potential repercussions for the situation of human rights in Cambodia. It is important that the Memorandum be concluded as soon as practicable.

X. Communications to the Government

59. Between April 2015 and May 2016, four urgent appeals and five allegation letters were communicated to the Government, most by special procedures. The subject matters included housing, the freedoms of assembly, expression and association, arbitrary detention, and human rights defenders (see A/HRC/30/27, A/HRC/31/79, A/HRC/32/53 and A/HRC/33/32). As at May 2016, no replies had been received. The Special Rapporteur encourages the Government to respond to the communications in order to facilitate understanding of the issues.

XI. Conclusions

60. **Cambodia has undergone a dramatic transformation since the mandate was established. It is nonetheless clear that many recommendations made by previous mandate holders have yet to be fully implemented. The current mandate holder therefore finds herself reiterating the findings of her predecessors; indeed, most of the recommendations made in the present report have already been raised directly in discussions with government ministers. Others are relevant to communications and/or reflect recommendations made by treaty bodies commenting on periodic reports submitted by the State or supported by it during the universal periodic review. The Government of Cambodia is encouraged to reflect on all the recommendations made. Preparing a realistic timetable for responding to and addressing recommendations**

would better permit progress to be demonstrated to the Human Rights Council. The Special Rapporteur expresses her willingness to work with the Government to better protect, respect and promote human rights, for the benefit of all Cambodians.

XII. Recommendations

61. The Special Rapporteur recommends that the Government of Cambodia:

(a) Review outstanding recommendations made by the Special Rapporteur, treaty bodies and States (in the context of the universal periodic review) with a view to preparing a draft on an implementation strategy with a realistic timescale;

(b) Consult widely, finalize and publish strategic plans and policies for achieving measurable success in attaining the Sustainable Development Goals;

(c) Implement a holistic approach to all issues with an impact on indigenous peoples, ensuring genuine consultation on all decisions affecting them; should resettlement be required, practise genuine consultation to ensure free and prior informed consent of indigenous peoples to any required resettlement, and seriously consider the feasibility of alternatives proposed by the communities;

(d) Accelerate the granting of communal land titles for indigenous peoples, issue and enforce interim protection orders, and consider simplifying the process;

(e) Continue the bilingual education programme for indigenous children, and ensure that the culture and beliefs of indigenous peoples are included in the national curriculum and actively protected in law and in practice;

(f) Review laws, policies and strategies, as necessary, to ensure that equality of men and women becomes a reality, undertaking public education to reinforce positive messages of equality, and consider taking measures to eliminate barriers to women standing for election, reflecting on the possibility of temporary special measures, including women-only shortlists or lists alternating men and women;

(g) Strengthen judicial mechanisms protecting victims of domestic violence and trafficking, intensifying efforts to train judicial officers and law enforcement officials on the law on the prevention of domestic violence to ensure effective prosecutions rather than recourse to mediation; and ensure that mediation and informal mechanisms are used only for non-criminal cases;

(h) Train more women to work with victims of violence and trafficking, and develop safe locations for women who are victims of violence and trafficking and programmes to ensure recovery and reintegration into society;

(i) Apply the relevant provisions of the Criminal Code when women are depicted in a graphic manner, in particular victims of sexual assault and violence;

(j) Continue to develop strategies in formal and informal education to raise awareness of women's rights and to combat traditional gender stereotyping;

(k) Publicly disseminate drafts of laws at an early stage to facilitate meaningful consultations on them and their compatibility with human rights;

(l) Ensure the full dissemination of the law on peaceful demonstrations and the implementing guide thereon, supported by appropriate training programmes for provincial authorities and law enforcement officials to ensure that the law is correctly applied; and consider preparing similar guidelines on the application of the law on associations and non-governmental organizations and trade union law, in cooperation

with stakeholders, to ensure that the law is applied in a manner consistent with the State's human rights obligations;

(m) Reconsider provisions of the Criminal Code that can be used to restrict freedom of expression to achieve greater compatibility with international human rights standards, decriminalizing offences as necessary;

(n) Take steps to ensure that land disputes are settled swiftly, fairly and definitively, and make attempts to standardize and publicize dispute resolution opportunities in order to minimize repetition and conflicting decisions by different bodies;

(o) In the case of communities that have to be relocated, ensure that resettlement planning is holistic, including consideration of food, water, work, education and health care; and take steps to provide additional training as necessary, and give access to food, water and energy, while the communities develop their farming, fishing and usufructuary skills to a sustainable level;

(p) Require, and enforce the requirement for, more meaningful consultations with communities in advance of compulsory resettlement;

(q) On the basis of the recommendations made by the previous mandate holder (see A/HRC/18/46), embark on a programme to strengthen the independence of the judiciary at all court levels, and separate the role of the executive in the functioning of the courts and in the training and discipline of members of the judiciary;

(r) Ensure that the list of court fees is publicly displayed in all courts and that any additional fees that clerks may legitimately charge are also verified and publicly displayed;

(s) Increase efforts to systematically record and report cases with a summary of the reasoning;

(t) Increase efforts to minimize pretrial detention in order to, inter alia, reduce prison overcrowding;

(u) Consider mechanisms to facilitate the timely registration and vote of all eligible Cambodian voters, including those who are homeless, disabled, relocated, in pretrial detention or homeless, or are internal migrant workers, while taking into consideration Cambodians who are documented or undocumented migrants overseas, including in other ASEAN countries;

(v) Prepare and maintain a working schedule for reporting obligations under treaties to which the State is a party, while continuing to develop broad consultation strategies to inform the reports prepared;

(w) Proceed expeditiously to establish, in accordance with the Optional Protocol to the Convention against Torture, an independent national preventive mechanism, and make public the two most recent reports of the Subcommittee against Torture;

(x) Conclude the Memorandum of Understanding with the United Nations to ensure the continued functioning of OHCHR in Cambodia.

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Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in the Central African Republic

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report by the Independent Expert, Marie-Thérèse Keita Bocoum, on the human rights situation in the Central African Republic, submitted pursuant to Council resolution 30/19. The report follows three visits by the Independent Expert and describes the overall evolution of the human rights situation in the Central African Republic together with major developments.

The Presidential election raised great expectations among the population, which is looking forward to the implementation of the Government's programme, especially as regards security and justice.

The security situation is still marked by the heavy presence of armed groups throughout the territory, the threats they pose to the civilian population and to displaced persons living in camps or enclaves, intercommunity tension, issues linked to transhumance, clashes within armed factions, the widespread availability of small arms, surging crime rates, the absence of State authority and the marginalization of the population in the eastern part of the country. At the end of June 2016, the situation was still worsening.

The Independent Expert underscores the importance of giving priority to ensuring the protection of civilians and immediately carrying out the reforms of the security sector that will make it possible to reassure civilians and to launch the other sectoral plans of action.

The Independent Expert encourages the authorities to ensure that the road map and short- and medium-term sectoral plans are operational, with coordinated support from their international partners. The Expert commends the importance given to the implementation of the Republican Pact adopted at the conclusion of the Forum held in Bangui in May 2015, in particular as regards efforts to combat impunity and to foster the inclusion of groups that feel marginalized.

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Report by the Independent Expert on the human rights situation in the Central African Republic

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 30/19 of 2 October 2015, in which the Council renewed the mandate of the Independent Expert and asked her to submit a written report at its thirty-third session.

2. The report of the Independent Expert covers the period from July 2015 to June 2016, during which time she conducted three visits to the Central African Republic, from 1 to 6 September 2015 and from 1 to 11 March and 10 to 20 June 2016.

3. In September 2015, she participated in an international seminar on efforts to combat impunity in the Central African Republic together with the United Nations High Commissioner for Human Rights. The seminar was organized by the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and the Office of the United Nations High Commissioner for Human Rights in cooperation with the Ministries of Justice and National Reconciliation.

4. In March 2016, the Independent Expert participated in the inauguration of a research centre for human rights and democratic governance at the law faculty of the University of Bangui.

5. The Independent Expert is grateful to the transitional authorities for their helpfulness and cooperation. She welcomes the willingness of the newly elected authorities, from the outset to work in close partnership and to engage in a frank dialogue on the country's human rights situation and on ways to strengthen national capacities and mechanisms.

6. The Independent Expert met with the President-elect, Faustin-Archange Touadéra, the Prime Minister and several members of the Government, the President of the National Assembly and the members of his executive office and senior representatives of the central and territorial administration, including the prosecutor-general of the Bangui district court and the senior judge, whom she thanks for their cooperation.

7. Discussions were also held with the leadership and the various sections of MINUSCA, United Nations agencies and humanitarian organizations, the force commanders of MINUSCA and Operation Sangaris, and representatives of the diplomatic corps, including the African Group of Ambassadors. The Independent Expert also met with various representatives of civil society, human rights organizations, women's organizations, youth representatives and leaders of the Interfaith Peace Platform and other religious leaders. In addition, she spoke with representatives of political parties and of the main ex-Séléka and anti-balaka armed groups.

8. In addition to Bangui, the Independent Expert visited Bossangoa, north-west of Bangui, Kaga Bandoro, 245 kilometres north of Bangui and Ndélé, in the north of the country. She also conducted visits to the PK-5 Muslim enclave in Bangui, to the Bimbo women's prison and to Ngaragba central prison in Bangui.

9. The Independent Expert extends particular thanks to the Director of the Human Rights Division of MINUSCA and its staff for their support in organizing her visits.

10. The Independent Expert also participated in two interactive dialogues with the Human Rights Council at its thirty-first and thirty-second sessions. During the interactive dialogue of 28 June 2016, she expressed regret that the Government and MINUSCA had been unable to send representatives to attend the discussion on transitional justice. In 2015, the transitional authorities sent the Ministers of Justice and National Reconciliation to attend the dialogue on efforts to combat impunity at which MINUSCA was represented by the Deputy Special Representative of the Secretary-General for the Central African

Republic. Civil society representatives attended both dialogues thanks to the financial support of MINUSCA.

II. General situation

A. Political context and elections

11. The year 2016 was marked by a referendum on the new Constitution and presidential and legislative elections, signalling the end of the political transition that had begun on 18 August 2013 for an initial period of 18 months and which had been extended until the swearing-in of the new President, who was elected on 30 March 2016. The elections received significant backing from MINUSCA and the international community.

12. The period was also marked by an upsurge in violence, the like of which had not been seen since early 2014, during September and October 2015. The violence in the capital left dozens dead and hundreds injured. Violent incidents also occurred in other cities across the country.

13. In early October 2015, the transitional President organized a series of consultations with 400 members of local authorities and political actors in order to find a peaceful solution to the crisis. However, many coalitions of political parties refused to participate, while others denounced the non-inclusive nature of the consultations. Violent incidents continued to occur until late October.

14. In his address to the National Transitional Council, which met on 21 and 22 October 2015, the transitional Prime Minister, Mahamat Kamoun, designated the supporters of former Presidents François Bozizé and Michel Djotodia as the main instigators of the violence. In late November, the transitional Government finally carried out a ministerial reshuffle in response to criticism of the action of the Government during the September crisis.

15. On 9 November, the national electoral authority announced the following electoral calendar: a constitutional referendum scheduled for 13 December, a combined first round of presidential and legislative elections scheduled for 27 December (postponed until 30 December) and a second round of elections scheduled for 31 January 2016.

16. The visit of Pope Francis on 29 and 30 November 2015 had a profound impact on the people of the Central African Republic. In visiting Catholic, Protestant and Muslim religious institutions, he sent a strong message urging all communities to show respect, tolerance and a spirit of reconciliation in dealing with one another. His visit to the PK-5 Muslim enclave was cheered by thousands of residents who followed him peacefully to the stadium. The Pope's unprecedented walk through PK-5 served to dispel fear and to encourage a certain freedom of movement between the Muslim enclave and the other districts of Bangui.

17. On 8 December, the transitional Constitutional Court ruled on the validity of all the candidatures for the presidential election. Of the 44 candidatures received, the Court found 14 to be invalid, including those of former President François Bozizé and the anti-balaka leader Patrice Edouard Ngaïssona, a decision which did not lead to violence in the streets.

18. On 9 December, 25 of the 30 candidates for the presidential election and 45 leaders of political parties pledged to observe a code of good conduct for their participation in the electoral process, which they have by and large respected.

19. The constitutional referendum led to the adoption of a new Constitution, with 93 per cent of the votes cast in favour, and took place peacefully, despite a few incidents. The first

section of the Constitution recognizes the existence of human rights as the basis of every human community and of global peace and justice, respect for rights and fundamental individual freedoms and the separation of powers. The Independent Expert welcomes the removal from the final version of those initial provisions, which would have guaranteed the incumbent President immunity from prosecution except in the case of high treason, and guaranteed former Presidents immunity on account of their capacity as honorary members of the Constitutional Court.

20. The first round of presidential and legislative elections took place on 30 December, having been postponed for three days. Overall, the elections took place peacefully with a turnout of 62.3 per cent. Thanks to the efforts of the Office of the United Nations High Commissioner for Refugees (UNHCR), refugees located in Cameroon, the Congo and Chad were able to participate in the election. However, the Democratic Republic of the Congo did not allow the some 112,000 Central African refugees on its territory to register to vote.

21. In connection with the legislative elections, 415 appeals were lodged, leading the transitional Constitutional Court to invalidate the ballot and to request a new first round of elections to be held. The appeals were based primarily on allegations of irregularities and fraud, corruption and intimidation of voters and candidates.

22. The second round of the presidential election and the new first round of the legislative elections took place on 14 February 2016. Observers noted a marked improvement in the conduct of the ballot, as the majority of polling stations opened on time and were properly equipped. The transitional Constitutional Court announced the final results of the presidential election on 1 March, confirming the victory of independent candidate Faustin-Archange Touadéra with 62.69 per cent of the vote over Anicet-George Dologuélé with 37.31 per cent of the vote. The turnout rate was 58.88 per cent. Mr. Dologuélé quickly conceded defeat and called upon his supporters to accept the results of the ballot.

23. The transitional Constitutional Court received 152 appeals relating to the legislative elections. On 14 March, the Court confirmed the victory of 45 candidates (for the 140 seats to be filled in Parliament) by an absolute majority in the first round of elections; regrettably, they included the anti-balaka leader Alfred Yekatom (also known as Colonel Rhombot or Rambo), whose name appears on the list of sanctions drawn up by the Security Council sanctions committee established by resolution 2127 (2013). The inauguration of President Touadéra took place on 30 March 2016. In his inaugural speech, the President stated that his inauguration signalled the return of the Central African Republic to the African and international scene, that security was his highest priority and that he would do everything in his power to enable Central Africans to live in peace throughout the whole of the national territory. He also drew attention to the importance of proper management of public resources and good governance, thereby demonstrating a willingness to break with past practices.

24. President Touadéra appointed his campaign manager, Simplice Sarandji, as Prime Minister on 2 April and his new Government by decree on 11 April. His cabinet, which consists of 23 ministers, includes 4 women and 4 Muslims, who hail from all regions of the country. The Government was generally well accepted by the population. The Independent Expert, while noting that key portfolios were allocated to Muslims and that no member of the armed groups was allocated a ministerial portfolio, regrets the inadequate representation of women in the new Government.

25. On 23 April, the Constitutional Court announced the provisional results of the second round of the legislative elections and confirmed the election of 128 members of Parliament. Of the 140 seats to be filled, only 11 are occupied by women.

26. On 7 June, Prime Minister Sarandji delivered his general policy speech before the National Assembly. His policy is structured around three pillars: security, the disarmament of armed groups and national reconciliation. The Independent Expert notes that these priorities tally with the guidelines laid down at the Bangui Forum and, in particular, the disarmament agreements concluded.

27. The Bangui Forum monitoring committee, which was created in May 2015 to oversee the implementation of the recommendations of the Republican Pact for Peace, National Reconciliation and Reconstruction adopted at the conclusion of the Forum, remained largely invisible during the transition. In his keynote speech, the Prime Minister pledged to create an interministerial committee responsible for implementing the Forum's recommendations. The Independent Expert urges that action be taken in this regard without delay.

B. Security context

28. The security situation in the country is still characterized by the strong presence of armed groups throughout the territory, the threat they pose to civilians and displaced persons living in camps or enclaves, intercommunity tensions, transhumance-related issues, power struggles within armed factions, the widespread circulation of weapons, including weapons other than firearms, crime, the absence of State authorities and the marginalization of the eastern part of the country.

29. Transhumance continues to give rise to violence, as Fulani herders are unable to use the transhumance corridors initially marked out for security reasons. This leads to clashes between arable farmers and livestock breeders who take up arms or seek the protection of armed groups for their flocks.

30. The murder of a Muslim taxi driver in Bangui on 26 September 2015 sparked an outbreak of violence the like of which had not been seen since early 2014. On 28 September, nearly 700 detainees escaped from Ngaragba prison in Bangui, including some high-profile detainees, and the next day 50 detainees escaped from the Bouar detention centre.

31. The PK-5 enclave witnessed scenes of intercommunity violence on 16 and 17 October, which had been orchestrated by anti-balaka or ex-Séléka supporters. On 26 October, a delegation from the ex-Séléka faction, Union pour la Paix en Centrafrique (Union for Peace in Central Africa) (UPC), from Bambari was attacked in Bangui, where it had come at the invitation of the transitional Government to take part in consultations. Three Christian civilians were reportedly killed in retaliation and the situation remained extremely tense between the two communities for several days.

32. The security situation improved from November 2015 to May 2016 with a significant decline in large-scale attacks against civilians and the end of the transition period. On 14 April, the President began a series of discussions with the leaders of the armed factions in order to keep the channels of communication open and to pave the way for a national programme of disarmament, demobilization, reintegration and repatriation, funded by international partners. However, in late June, the Independent Expert noted that the discussions had not led to the conclusion of clear agreements on disarming armed groups and the dismantling of militias.

33. In 2015, 1,151 incidents targeting humanitarian actors were recorded, including attacks on humanitarian convoys, attacks and threats against humanitarian personnel or persons receiving assistance from them and the looting of humanitarian assets. On 18 May 2016, an attack on a convoy belonging to Médecins Sans Frontières (MSF) in Koui, in the prefecture of Ouham-Pendé, resulted in the death of a driver and forced the organization to

suspend its activities in the province. On 17 June, another of the organization's drivers was killed in similar circumstances in the prefecture of Kémo.

34. The security situation deteriorated again in late June during clashes between armed fighters and MINUSCA soldiers in the PK-5 enclave, which resulted in the death of 6 armed men and 15 civilian casualties. On 24 June, a Senegalese peacekeeper was killed by armed men in Bangui. In early July, clashes between the different ex-Séléka factions in Kaga Bandoro once again forced civilians to seek protection in camps for displaced persons protected by international forces. UNHCR has also registered more than 6,000 new refugees from the Central African Republic in Chad and Cameroon since mid-June.

35. The Independent Expert expressed concern about the situation during her previous mission to the country in June and reiterated it in her final press release. She underlined the urgent need to adopt robust measures to halt the fighting, to guarantee the protection of civilians and humanitarian actors and to assist victims and displaced persons.[1] In a press release of 4 July, the United Nations High Commissioner for Human Rights also warned against a possible further deterioration of the security and human rights situation in the country.[2] This "instability carries the risk of a rapid deterioration and underscores the urgent need to disarm armed groups, to restore State authority and the rule of law and to guarantee the security and protection of all civilians.

III. Human rights situation

36. In 2015, MINUSCA reported 1,278 human rights violations which left 1,786 victims. The violations include killings, acts of torture and inhuman and degrading treatment, arbitrary arrest, gender-based violence and acts of racketeering and extortion.

37. Most of the violations are perpetrated by armed groups, which continue to intimidate, threaten and attack any individual or local community group that they accuse of collaborating or being affiliated with a rival armed group. The main armed groups are the anti-balaka, the ex-Séléka faction and the various factions of that movement. The Lord's Resistance Army has also increased its activities and acts of abuse against the local communities since the beginning of the year.

38. The Independent Expert was informed of violations committed by the national security forces, including extrajudicial executions by the staff of the Central African Office for the Suppression of Banditry, among others.

A. Acts of abuse attributed to armed groups

39. Although large-scale attacks against civilians have decreased during this period, the situation remains on a knife-edge and unpredictable. Civilians are still vulnerable in large swathes of the country, especially in the western region, which is controlled by the anti-balaka faction (the prefectures of Nana Mambéré, Ouham-Pendé and Ouham) and in the eastern region, where the main ex-Séléka factions continue to exercise control over the

[1] Press release of 21 June 2016. Available at the following address: www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=20151&LangID=F (consulted on 15 July 2016).

[2] Press release of 4 July 2016. Available at the following address: www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=20229&LangID=F (consulted on 15 July 2016).

territory and its natural resources. In the east, the Lord's Resistance Army threatens civilians and carries out increasingly frequent kidnappings.

40. In the four days following the murder of a young Muslim on 26 September 2015, 77 people were killed, 400 were injured and some 40,000 were displaced.[3] The Human Rights Division of MINUSCA described the violence to be largely sectarian and to have been made possible by the environment of instability and impunity.[4]

41. The Division confirmed the execution of 32 civilians, including 19 men and 13 women, and physical assaults against 1 man and 5 women by members of ex-Séléka factions or their supporters between 26 September and 20 October in Bangui. The vast majority of the victims were Christian, which indicates that the perpetrators selected their targets because of their community.[5] The Division also reported that the anti-balaka faction and its supporters were responsible for the deaths of at least six civilians, including four children, and for the injuries sustained by a further seven. Numerous cases of sexual violence have also been attributed to all the conflicting parties.

42. Several religious buildings were attacked, burned down and looted, even in Bangui. Violent incidents continued during the month of October in Bangui and in the provinces and were sometimes politically motivated. For example, in Bambari, armed men crossed the Ouaka bridge in late September to fight members of an anti-balaka faction. The violence left 11 persons injured and 22 houses were burned down.

43. Armed groups commit human rights violations almost on a daily basis. The following examples show that these violations almost always target a specific community or are part of a struggle between armed factions for territorial control. On 5 January 2016, outside the village of Pakam (Nana Mambéré), armed Fulanis affiliated with the R3 group run by Colonel Siddiki shot and killed a civilian before burning his body. The same group is also allegedly responsible for the death of two men on 21 March during an attack on the village of Ngouvota, near Kaga Bandoro. On 4 March, members of the ex-Séléka/Union Pour la Paix en Centrafrique faction allegedly killed three women from the same family who were returning from their fields 8 kilometres from Bambari, in retaliation for the death of two of their own.

44. As to the violations attributed to members of the anti-balaka group, on 23 October 2015, a shopkeeper was beaten up in Bossangoa by an anti-balaka fighter on the pretext that she was dressed like a member of an ex-Séléka faction. On 16 January 2016, members of the anti-balaka group under the command of Franco Yagbingui allegedly killed a 15-year-old boy during an attack on the village of Ngouvota.

45. Members of armed groups reportedly continue to rape women and girls with impunity. On 23 February, four armed men affiliated with the Révolution et Justice (Revolution and Justice) movement gang-raped a 14-year-old girl who was returning home on foot in the village of Pende (Ouham) before attacking her with machetes. On 26 February, an anti-balaka leader raped a pregnant 25-year-old woman in the Batangafo (Ouham) camp for displaced persons before beating up her husband and two other people who were trying to protect her. MINUSCA subsequently arrested the culprit.

[3] S/2015/918, para. 18. See also the last report of the Panel of Experts on the Central African Republic, which mentions that 79 civilians were killed and 512 injured during this period (S/2015/936, para. 9).

[4] Report entitled "Violations and abuses of International Human Rights and Humanitarian Law committed in Bangui, Central African Republic, between 26 September and 20 October 2015". Available at the following address: https://minusca.unmissions.org/sites/default/files/bangui_report_final_final_french_.pdf (consulted on 15 July 2016).

[5] Ibid., para. 26.

46. The Lord's Resistance Army has become increasingly visible since the beginning of 2016, especially in the south-east of the country, in the prefecture of Mbomou, which is a rich mining area. During the month of January, it was reportedly responsible for nearly 130 instances of hostage-taking, for the deaths of 4 civilians and for the displacement of some 800 people on account of violent incidents. The Independent Expert notes with satisfaction that MINUSCA increased its presence in the area to protect vulnerable populations. However, she remains concerned about the detrimental impact of the possible withdrawal of the African Union forces present in the region to combat the Lord's Resistance Army.

47. The Independent Expert continues to receive numerous reports from civilians who do not feel sufficiently protected by MINUSCA, which often arrives too late on the scene of acts of violence. In early 2016, MINUSCA revised its civilian protection strategy by improving its preventive response and security measures through the introduction of early warning mechanisms. It also increased its local presence by appointing national officers responsible for establishing links with local communities. The Independent Expert encourages MINUSCA to continue its efforts to strengthen protection and to earn the trust of the population.

B. Violations attributed to the national armed forces

48. The Independent Expert was informed of human rights violations committed by certain members of the armed forces of the Central African Republic, acting in support of or in direct affiliation with members of the anti-balaka faction. In its public report on the events of September-October 2015, the Human Rights Division of MINUSCA mentions that it confirmed three extrajudicial executions of civilians, including those of two boys aged 16 and 17, by members of the armed forces of the Central African Republic between 26 September and 20 October in the 3rd and 5th districts of Bangui. The Division also received reports that members of the armed forces of the Central African Republic had extrajudicially executed two civilians presumed to be Muslim in the 5th district of the city.[6]

49. The Independent Expert is concerned about the serious allegations made against the Central African Office for the Suppression of Banditry and its former director, Robert Yékoua-Ketté. The Human Rights Division of MINUSCA reported that the Office was responsible for at least four extrajudicial executions in Bangui since January 2016. Between March and November 2015, MINUSCA had already documented at least 12 extrajudicial executions, including that of a 14-year-old boy. The Independent Expert also has taken note of the report of Human Rights Watch, which mentions that the Office was responsible for 18 unlawful executions from April 2015 to March 2016.[7] The Independent Expert has taken due note of the dismissal of the director in question on 8 June 2016 and calls upon the authorities to launch an investigation into the acts of violence and crimes committed and, if appropriate, to prosecute and punish those responsible, as well as the director. The Office had already been involved in numerous acts of torture, extrajudicial executions and unlawful detention since 2003.

50. The Division also documented other physical assaults on persons by the security forces, including the case of three detainees who were allegedly tortured by gendarmes in Bambari on 29 April 2016 following the murder of an anti-balaka fighter. The detainees were reportedly forced to pay a ransom for their release.

[6] Ibid., para. 55.

[7] Report of Human Rights Watch dated 27 June 2016. Available at the following address: www.hrw.org/fr/news/2016/06/27/republique-centrafricaine-une-unite-de-police-tue-18-personnes-de-sang-froid (consulted on 20 July 2016).

51. Reports of rape have also been received. A member of the Armed Forces of the Central African Republic who was guarding the Bimbo women's prison was arrested for the alleged rape of a 16-year-old girl in the prison in February 2016. The suspect was remanded in custody on 3 March and placed in Ngaragba prison, but, to date, he has not been brought before a judicial authority.

52. Arrests and arbitrary detention remain common owing to the absence of a functioning judiciary, the technical and logistical constraints stemming from the dearth of training for the security forces and the unavailability of the resources necessary to ensure compliance with legal procedures.

53. Several civil society organizations with which the Independent Expert met continue to request the lifting of the embargo and the restoration of the armed forces of the Central African Republic, despite their known deficiencies. These repeated requests point to the civilian population's constant calls for protection, which they consider to be necessary on account of gaps in the protection provided by MINUSCA. The Independent Expert takes note of those requests but also highlights the importance of undertaking a thorough reform of the security sector, of introducing a vetting and validation process to ensure that those responsible for serious human rights violations are not recruited back into the security forces and of creating a responsible, republican and democratic army.

C. Minority rights

54. The situation of minorities has scarcely changed during the period under review. The stigmatization of young Muslims and their lack of prospects often drive them into crime or to join armed groups or areas under the control of ex-Séléka forces in the north of the country. These young people consider themselves second-class citizens.

55. During meetings with PK-5 representatives, the Independent Expert was informed of the lack of social and medical services in an already overcrowded area that continues to receive displaced persons. During her visit in March, the people in the area were already concerned about the return of displaced persons to the PK-5 enclave without suitable provision being made for them.

56. The young people whom the Independent Expert met in the University of Bangui, in the PK-5 enclave, at Kaga-Bandoro, Bossangoa and Ndélé said that, for security reasons, it is still practically impossible for Muslim students to leave the enclaves and return to university. They said they suffered from red tape, entailing discriminatory practices such as demands for additional supporting documents for processing applications, tight registration deadlines that fail to take into account the difficulties young Muslims face in moving around, and even examinations being organized during Muslim religious holidays.

57. Students were also concerned about the long-term consequences of school absenteeism and the high illiteracy rate among young people from Muslim communities, which could lead to long-term discrimination in access to employment.

58. Given the lack of State services in the PK-5 enclave, the association of Central African Muslim professionals took the initiative of setting up a school and educating children on the spot.

59. The Independent Expert urged the authorities to launch awareness-raising campaigns on non-discrimination and living together in order to defuse tension among Central Africans and to condemn discrimination on grounds of ethnicity, which has an impact on population movements or regrouping in already vulnerable neighbourhoods.

D. Refugees and internally displaced persons

60. The ongoing displacement of 421,000 persons in a hundred sites around the country, together with a population of 478,000 Central African refugees in neighbouring countries, shows the fragility of the situation. Displaced persons in Muslim enclaves continue to be especially vulnerable to violence by armed groups, in particular in Bambari and Batangafo. On 3 May 2016, the group coordinating and managing the camps estimated the number of displaced persons on the Batangafo site the country's second largest site in Ouham prefecture to be around 30,500.[8] The main enclaves are located in Kaga Bandoro, Boda, Carnot, Berbérati, Dekoa, Bouar, Yaloké and Bangui (PK-5). Displaced persons are living in very precarious conditions and remain at risk of repeated threats from armed groups and gender-based violence.

61. On 14 May, the President and Prime Minister visited the M'Poko and Bimbo camps for displaced persons. In June, during her meeting with the Minister for Social Affairs and National Reconciliation, the Independent Expert noted that priority will be given to the M'Poko camp to identify appropriate action to ensure that returns are carried out in accordance with international standards. The Minister underlined the importance of adopting a strategy of assistance for the displaced persons of M'Poko in cooperation with all humanitarian partners.

62. The sustainable return of refugees and displaced persons requires a stable and safe environment. The main factors hindering returns are permanent insecurity, destruction of property, lack of trust in the State's ability to protect, fear of renewed violence and lack of opportunities to earn a living.

63. The Independent Expert encourages the authorities to pay close attention to this issue in order to find quick, safe and sustainable solutions.

E. Violence connected with accusations of witchcraft

64. The Human Rights Division continues to document violence committed for the most part by anti-balaka factions against persons accused of witchcraft, and has documented 63 cases since January 2016. Women are the main victims, except in Bangui, where they tend to be children. Acts of abuse have been recorded primarily in the capital and in towns in the west of the country, where the anti-balaka factions dominate, such as Bouar, Baoro and Bossangoa.

65. For example, on 18 September 2015, four women were killed in two villages in the Nana Grebizi prefecture, in the west of the country. The women were tortured, their ears cut off and they were forced to eat them. They were then buried alive after being accused of witchcraft.

66. Despite awareness-raising campaigns conducted by MINUSCA to counter these inhumane practices, the Independent Expert remains concerned about the extent of the problem which, under the guise of charges of witchcraft, actually involves premeditated acts by armed groups, more often than not to extort money from victims.

67. On each visit and in her reports the Independent Expert continues to alert the authorities to these practices. She reiterates her previous recommendations, which include the adoption of measures to launch an awareness-raising campaign to discourage such acts.

[8] *Source*: OCHA, Humanitarian Bulletin, Central African Republic, May 2016. Available at the following address: http://reliefweb.int/sites/reliefweb.int/files/resources/RCA_BH_MAI_2016.pdf (consulted on 20 July 2016).

training on the topic for law enforcement agencies, reviewing and amending existing legal instruments and identifying, arresting and putting on trial the perpetrators of the offences.[9]

F. Gender-based violence

68. During her visits, the Independent Expert was informed of sexual violence and forced marriages, particularly in Ndélé, Kaga Bandoro and Bossangoa. Between 30 November 2015 and 30 June 2016, MINUSCA received 100 reports of conflict-related acts of sexual violence, 78 of which were investigated and determined to be founded. The 78 victims include 34 women, 36 girls, 7 females of unknown age and 1 boy.

69. The true number of these acts of violence is likely to be higher, but the stigma and intimidation faced by the victims, together with the lack of justice, usually deter them from filing complaints.

70. The Independent Expert also received information on cases of gender-based violence recorded between January and October 2015 via the information management system. There were reportedly 60,208 cases of female survivors receiving medical and/or psychosocial care, in accordance with their individual needs; 29,801 of them were victims of sexual violence, although there was no indication as to whether the acts of violence were conflict-related.[10]

71. The discrepancy between these figures reveals the need to step up the attention given by the authorities and the international community to gender-based and sexual violence. The Independent Expert stresses the need for a specific methodology when classifying conflict-related sexual violence.[11] This will make it possible better to assess victims' needs in terms of assistance and more effectively to combat impunity for offences committed and violations of the right of victims to receive justice.

G. Situation of children

72. The situation of Central African children remains worrying. They are victims of violence, including sexual violence, and recruitment by armed groups. They continue to suffer from malnutrition and poor access to health and education services. The lack of routine birth registration also poses long-term problems.

73. The violence in Bangui in September and October 2015 exacted a particularly lethal toll on children, leaving 25 dead and 31 wounded.[12]

74. Many children are kidnapped by the Lord's Resistance Army (LRA) and used to carry off goods stolen in villages or for other support roles. Abducted girls are often kept as sex slaves. The transitional Government and the new Government reportedly at times refused to cooperate with people providing assistance to children who have escaped from the LRA. The authorities reportedly prefer to keep these children in detention so as to interrogate them to extract information on LRA activities, thereby depriving them of the right to humanitarian assistance, including psychosocial and family reunification assistance.

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[9] See A/HRC/30/59, paras. 60 to 63 and 108 *g*.

[10] http://reliefweb.int/report/central-african-republic/unfpa-fighting-against-gender-based-violence-car-need-inter (consulted on 20 July 2016).

[11] See the provisional guidance notes for implementation of Security Council resolution 1960 (2010). Available at the following address: www.refworld.org/pdfid/4e23ed5d2.pdf provisional (consulted on 20 July 2016).

[12] S/2015/918, para. 34.

75. By December 2015, nearly 5,000 children had been demobilized and between January and April 2016 around 1,298 children were released from armed groups. International actors responsible for child protection have drawn attention to the numerous demobilization-related challenges that vary depending on the armed group into which the children were taken. They have also condemned the lack of care and reintegration programmes; the Independent Expert considers it important to strengthen these in the coming months. She also encourages the establishment of rehabilitation centres for children in conflict with the law.

H. Humanitarian situation, and economic, social and cultural rights

76. The humanitarian situation throughout the country remains alarming. The population of the Central African Republic, which is estimated at 4.6 million, is still affected by the consequences of conflicts and the lack of basic social services. Around 2.3 million persons face food insecurity and require humanitarian aid to survive, and two thirds of the population lack access to health care. Despite a number of voluntary returns, around 20 per cent of the population are still displaced. Furthermore, the humanitarian response plan remains significantly underfunded, with only 17 per cent of the needs met.

77. Violations of economic, social and cultural rights continue, particularly through illegal taxation and the illegal exploitation of natural resources. The Independent Expert was informed that in the areas controlled by the ex-Séléka faction, the militia collect taxes and duties, and provide parallel security and administrative services. The final report of the Panel of Experts on the Central African Republic shows that, throughout the country, armed groups collect revenue from the trade in natural resources.[13] The report indicates that the Union pour la paix en Centrafrique (Union for Peace in Central Africa — UPC) of "General" Ali Darrassa Mahamat thrives on gold production around Bambari, and the coffee trade with the Sudan. The Front populaire pour la renaissance de la Centrafrique (Patriotic Front for the Renaissance of Central Africa — FPRC) of Nourredine Adam levies taxes on the livestock trade in Kabo and Kaga Bandoro, and on the diamond trade in Ndélé, Bria and Sam-Ouandja. The Independent Expert was also alerted to the persistent issue of the plundering of the country's forest resources. A report by the non-governmental organization Global Witness refers to payments by foreign logging companies to anti-balaka factions in order to facilitate timber exports.[14]

78. The pillage and destruction of goods and properties is still a serious issue that must be resolved to enable refugees to return. The International Commission of Inquiry recommended in its report that the transitional Government prepare, in cooperation with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), a policy to restore the property rights of persons who had been forced to flee as a result of community violence, and whose homes and land had been taken over by others, or to provide them with compensation.[15]

79. Basic social and health-care services are also inadequate and are sometimes overburdened in areas where the population has increased due to displacements. The inhabitants of Bangui's PK-5 enclave, in particular, have reported a lack of health and maternity centres. Recent surveys conducted in areas such as Dekoa and Obo have

[13] See S/2015/936.

[14] See report entitled *Blood Timber: How Europe played a significant role in funding war in the Central African Republic*, July 2015. Available at https://www.globalwitness.org/en-gb/campaigns/forests/bloodtimber/ (consulted on 20 July 2016).

[15] See S/2014/928, p. 27.

highlighted the almost complete lack of medical services. There is virtually no psychosocial support in the country.

80. MINUSCA and international partners continue to support the implementation of highly labour-intensive projects with the aim of rebuilding social cohesion among divided communities and injecting money into the local economy. The Independent Expert noted the positive impact of these activities and encouraged similar initiatives to boost the economy.

I. Violations attributed to the international forces

81. Further allegations of sexual exploitation and sexual abuse by international forces have been made in 2016.

82. During the reporting period, MINUSCA documented 21 cases of sexual exploitation and sexual abuse allegedly committed by international forces against children. In 19 of these cases, the violations were attributed to MINUSCA peacekeepers, including 7 alleged rapes of girls between 11 and 17 years of age.

83. The United Nations system, including MINUSCA and the Member States, has recognized the importance of effectively combating sexual exploitation and abuse, and has taken urgent steps to minimize the risk of sexual violence, including by confining contingents. The Independent Expert welcomes the appointment in February 2016 of Ms. Jane Holl Lute as Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse.

84. Since early 2016, MINUSCA has reaffirmed its full commitment to the Secretary-General's zero-tolerance policy on sexual exploitation and abuse, and has demonstrated its determination that each allegation be thoroughly investigated, that assistance be provided for the victims, and that the perpetrators be held accountable for their actions.

85. Following the allegations brought to the attention of the Member States of the international contingents and forces concerned, several States dispatched teams of national investigators to inquire into the allegations and to consider measures for the protection of victims.

86. The Independent Expert took note of the decision by the United Nations system to repatriate a national contingent involved in confirmed allegations of sexual exploitation and abuse of women and girls at Bambari. She recalled that the contingents deployed in the Central African Republic had an important mandate to protect civilians, and supported the measures taken against soldiers who seemingly failed to respect that mandate.

87. Victims are at the centre of the response to these violations. All partners that met with the Independent Expert agreed on the principle of non-discrimination in assisting the victims of sexual exploitation and abuse, regardless of the identity of the perpetrators. The Independent Expert urges that this assistance should seek to improve existing social, medical and legal services for all victims.

88. The Independent Expert continues to encourage all national and international stakeholders to recognize the principle of "do no harm" in relation to the victims' interests, and to ensure that they are treated sensitively and with respect for the confidentiality of information, thus guarding against stigmatization.

IV. Transitional justice and mechanism to combat impunity

89. The population continues to express frustration and fear because of the impunity of the perpetrators of serious human rights violations. During meetings with the Independent Expert, civil society representatives reaffirmed the need for constitutional and democratic change to be mirrored by effective efforts to combat impunity, together with the application of, and respect for, the law. However, to date the main commanders of armed groups have gone unchallenged.

90. From 2 to 4 September 2015, the Independent Expert participated in an international seminar on efforts to combat impunity organized by MINUSCA and the Office of the High Commissioner, in collaboration with the Ministries of Justice and National Reconciliation. The seminar was part of the natural follow-up to the recommendations of the Bangui Forum, and aimed to support efforts to combat impunity, to assess the status of judicial and non-judicial responses in the wake of the crisis, and to draft a set of proposals intended as inputs for an overall national strategy to combat impunity. The Independent Expert invites the Human Rights Division to widely disseminate the conclusions and recommendations of the report.

91. In May 2016, the Division and the Office of the High Commissioner launched a project to compile an inventory of the main human rights violations committed in the Central African Republic since 2003. By the end of the year, the project team should have prepared a report that will suggest priority lines of inquiry for the future Special Criminal Court, along with information that will allow the judicial authorities to identify alleged perpetrators of serious violations and to develop a prosecution strategy. The report will also contain guidance for the creation of mechanisms to establish the truth, grant reparations, and offer guarantees of non-repetition.

A. Special Criminal Court

92. The new administration has reiterated its desire to establish the Special Criminal Court, notwithstanding the delay in setting it up. Significant progress has been achieved in appointing the selection committee for national magistrates and in approving the operating budget for the first 18 months, while declarations of interest have been received from several States with regard to the appointment of international magistrates. A joint project by United Nations bodies to support the Special Criminal Court is now being finalized. However, funding for the Court to operate for five years, the recruitment of magistrates, security, the availability of well-trained Central African lawyers and victim and witness protection all present sizeable challenges for the Government in the coming months.

93. Since the Special Criminal Court will complement the ordinary judicial system, synergy should be developed to enable the work of the Court to contribute to building the capacities of the domestic court system.

94. The Independent Expert encourages the national authorities to speed up efforts to operationalize the Special Criminal Court by the end of the year. To that end, the negotiations over the United Nations support project document should be brought to a swift conclusion, in order to proceed with the recruitment of personnel.

B. Non-judicial mechanisms and reconciliation

95. Several initiatives have been taken with a view to reducing intercommunity violence and moving towards reconciliation, but these remain insufficient.

96. In his keynote address, the Prime Minister placed emphasis on national reconciliation and said that no effort would be spared to ensure its realization. He also stated that the Government wished to set up local peace and reconciliation committees in order to foster a culture of peace and human rights.

97. He also committed to establishing a truth, justice, reparation and reconciliation commission in accordance with the recommendations of the Bangui Forum. One year after this important consultation process, the Independent Expert notes that extended thematic consultations are yet to be held, in order to consider these issues in greater depth before the formation of the aforementioned commission, and to place victims at the centre of the design and implementation of transitional justice mechanisms.

98. The Independent Expert considers that it is essential to ensure the safety and protection of victims and witnesses. Where this is not the case, it is likely that victims and witnesses will remain silent on the perpetrators of serious violations.

99. The Pope's visit reassured communities and offered the first signs of hope and opening towards peace and forgiveness. The stated readiness of the inhabitants of PK-5 to move towards reconciliation illustrates the importance of an inclusive dialogue and of popular consultation to alleviate frustration.

100. In his inaugural address, the President made a solemn appeal to all Central Africans for national reconciliation and cohesion, without which there can be no development. His visit to the PK-5 enclave one week after his investiture was appreciated as a sign of the political will to achieve inclusion.

101. Several community-level initiatives to promote dialogue and reconciliation have emerged with the support of the Ministry for National Reconciliation and of international partners. On 11 February, following efforts to promote intercommunity reconciliation, the Muslim communities of the third arrondissement of Bangui and Christians from the Boeing neighbourhood signed a "non-aggression pact" under the auspices of MINUSCA and France. Access to the Muslim cemetery in Boeing has been secured as a result of this agreement.

102. Pending the completion of a detailed, coherent and accepted road map on transitional justice initiatives, it is important to continue to promote the right to truth, including through information-gathering and the documentation of the violations committed. Equally, it is crucial to ensure the preservation, accessibility and use of existing archives.

103. As regards reparations, the Government has instituted 11 May as a day in commemoration of the victims, and intends to erect a memorial. These symbolic actions should be welcomed, and the authorities encouraged to further reflect on establishing a national programme of potential individual and collective reparations, in coordination with the affected communities, particularly victims, women, and marginalized groups. Such a programme should take account of the particular needs of the victims of sexual and sexist violence.

104. Capacity-building is essential to civil society's understanding of transitional justice measures, and will enable it to make a contribution towards truth, justice and reconciliation. Civil society should be able to support victims and witnesses in these transitional justice processes, among other capabilities.

105. Communication — in respect of the various forms of transitional justice — and an inclusive intercommunity dialogue involving displaced persons, refugees, minority groups, young people and women, are crucial tools in restoring social cohesion and taking full ownership of these mechanisms. Consultations with civil society during the previous mission of the Independent Expert revealed frustration and a sense of exclusion among

certain groups. It is through these transitional justice mechanisms that the Central African Republic must renew its social contract and promote coexistence.

106. The Independent Expert underscores the importance of strengthening the links between truth, justice, reparation and guarantees of non-repetition and, more generally, between these measures and the main priorities in terms of security and disarmament. The Government must ensure that transitional justice processes and mechanisms take account of the root causes of the conflict and examine all rights violations. By striving for an integrated and interdependent response to all types of violations, transitional justice may attain the broader objectives of preventing new conflicts, of consolidating peace, and of reconciliation.

C. Court and prison administration

107. Criminal justice remains practically non-existent. Despite commitments by the authorities, no session of the criminal court has taken place since the first session in July 2015, which itself followed almost five years without proceedings. The Independent Expert encourages the authorities to hold a second session as quickly as possible, in order to try defendants whose files are complete and to resolve the question of prolonged pretrial detention. A second session would send a strong signal of the renewal of judicial activity and the struggle against impunity. According to the Minister of Justice, the priority is to support ordinary domestic courts to ensure that they are able to function throughout the country. An emergency plan on justice has been drawn up and funds budgeted, but has not yet received support.

108. In response to the incidents of September and October 2015, the Minister of Justice instructed the authorities to investigate crimes committed after 26 September. The public prosecutor at the court of first instance of Bangui created a special investigation unit for that purpose. On 15 March, the leader of the former Séléka Front populaire pour la renaissance de la Centrafrique (FPRC), Abdoulaye Hissène, was detained in Bangui on the grounds of his purported involvement in September's violence, but was freed by armed elements later that day.[16] To date, no further charges have been brought, or arrests made, under this inquiry.

109. The Central African Republic has 28 ordinary courts (24 courts of first instance, 3 appeal courts and a court of cassation) and 162 magistrates. After the arrival of MINUSCA in September 2014, magistrates were deployed to 12 jurisdictions (Bambari, Bangassou, Berbérati, Birao, Bossembélé, Bouar, Bozoum, Bria, Carnot, Mobaye, Obo and Sibut). However, some redeployed magistrates have been unable to remain in their posting, as at Birao and Ndélé. Others have been appointed but remain in Bangui, considering that difficult conditions or the uncertain security situation prevent their return. Some magistrates have been threatened by armed groups, prohibiting them from taking up their post, as at Ndélé. Many courts were destroyed and looted during the conflict. The fact that the country's 135 lawyers are confined to Bangui raises a challenge for access to justice, and its exercise, in the rest of the country.

110. There is no system for the protection of victims and witnesses, despite the intimidation and insecurity that they face. Civil society organizations claim that victims are unable to testify to violations experienced while they continue to live side-by-side with the perpetrators, and while there is no guarantee of a credible, reliable judicial process.

[16] See S/2016/305, para. 18.

111. The training needs of judicial personnel, including lawyers, are considerable and concern areas such as the role of the examining magistrate, the storage and safekeeping of files, the conduct of victim and witness hearings in criminal cases, and the enforcement of sentences.

112. The prison service was already underdeveloped before the 2013 conflict and it remains barely functional. While administrators have been appointed for the country's 38 prisons, only 7 are taking in detainees and just 11 are staffed: those at Baboua, Berbérati, Bimbo, Boda, Bossangoa, Bossembélé, Bouar, Bria, Kaga Bandoro and Mbaiki, and the central prison at Ngaragba (including the Camp de Roux facility).

113. There are currently five detention centres outside Bangui (Bangassou, Berbérati, Bouar, Bria and Mbaiki), holding about 230 of the country's 600-strong prison population. Infrastructure is generally dilapidated and the food budget is clearly insufficient. Camp de Roux, an annex of Ngaragba prison located on a Central African Republic armed forces base in Bangui, holds 12 high-profile inmates accused of serious crimes. The Independent Expert also notes the existence of several illegal detention centres in parts of the country controlled by armed groups, notably at Kaga Bandoro.

114. Despite the legislation passed in 2012 that provided for the civilian administration of prisons, there are fewer than 60 civilian prison officers, only 8 of whom have received the relevant security training. The armed forces are currently responsible for maintaining security at the prisons of Bangui, Berbérati, Bouar, Bria and Mbaiki, although its personnel are not trained for this purpose. The members of the armed forces responsible for prison security often have close links with the detainees, who are sometimes former members of the armed forces or of the anti-balaka faction. A MINUSCA contingent is currently providing perimeter security to forestall potential attacks.

115. After MINUSCA was put in charge of national prison staffing in Bangui and Bouar, trained female prison officers took over the management of the Bimbo women's prison near Bangui. During her March visit, the Independent Expert expressed concern over the serious allegations of the rape of detainees at Bimbo, and raised the issue with the public prosecutor. The Independent Expert expressed satisfaction that the management of detainees is now the responsibility of female prison officers, trained in prison administration by MINUSCA and the Ministry of Justice. She encourages the authorities to assign more female staff to other detention centres and penal institutions, including in management and administrative positions, and to ensure that they receive an appropriate wage.

116. The public prosecutor at the court of first instance in Bangui highlighted the positive contribution of MINUSCA to prison administration, which had resulted in a gradual demilitarization of detention facilities and a reduction in the number of escapes.

V. Conclusions and recommendations

A. Conclusions

117. **During her previous visit, the Independent Expert noted that civil society was concerned and expressed the hope that the implementation of the Government's first measures would be inclusive and strategic, especially in the field of security and justice. She also noted the frustration and sense of exclusion felt by young people, women and religious communities in Bangui and the country's interior.**

118. **The Independent Expert highlights the importance of ensuring first and foremost the restoration of the State and the protection of civilians, and of embarking**

immediately on the reform of the security sector in order to reassure civilians and enable the launch of other sectoral action plans.

119. She therefore encourages the authorities to implement the road map for action and sectoral action plans as soon as possible, with coordinated support from international partners. She recognizes the importance of implementing measures in the Republican Pact adopted at the Bangui National Forum in May 2015, especially those concerning the efforts to combat impunity and to achieve the inclusion of persons with disabilities and groups that feel marginalized.

120. With regard to non-judicial measures for truth and reconciliation, the Independent Expert emphasizes that broad consultations are crucial for the implementation of a coherent and consensual strategy focused on victims' needs.

121. She recalls that the President and authorities of the Central African Republic bear a heavy responsibility, namely to show their commitment to end impunity and provide access to justice; to give a central role to victims; to conduct the necessary institutional reforms; to establish good governance; and to restore the population's trust in the institutions. She calls on the international community to continue providing coordinated military, financial and technical support to the Central African Republic in order to help the country find a lasting solution to the crisis.

B. Recommendations

122. The Independent Expert reiterates the recommendations contained in her previous report (see A/HRC/30/59, para. 108), most of which remain pending. She calls on the Government, with the support of the international community:

(a) To endorse, as soon as possible, the road maps on disarmament, demobilization and reintegration; to encourage inclusive national reconciliation, including through municipal elections; and to implement the first urgent measures;

(b) To establish victim and witness protection measures without further delay, and to strengthen the judiciary so that it is safe for victims to seek redress in court;

(c) To bring to justice all perpetrators of violations of international humanitarian law and human rights, irrespective of their status or political, religious or ethnic affiliation;

(d) To step up efforts to ensure that the Special Criminal Court becomes operational as soon as possible, by finalizing the United Nations project to support the Court and guaranteeing the selection and appointment of judges and judicial personnel of the highest calibre who are familiar with the legal culture of the country and have experience, in particular in the investigation and prosecution of international crimes;

(e) To strengthen the training of all stakeholders, including judicial personnel, lawyers, the Bar civil society organizations and community leaders and keep them regularly informed about the progress made in the establishment of the Special Criminal Court.

(f) To become more directly and proactively involved in defusing intercommunity tensions and promoting reconciliation and peaceful coexistence through initiatives based on consultations with the communities concerned;

(g) To develop a global strategy to address the legacy of past violations through appropriate transitional justice mechanisms, in accordance with

international legal standards and obligations, placing victims at the core and giving particular attention to abuses committed against the most affected groups, especially women;

(h) To establish conditions under which the informed, voluntary, dignified and sustainable return of refugees and displaced persons and their reintegration into their community is possible;

(i) To prosecute and punish all perpetrators of violations against persons accused of witchcraft, and begin a national debate on the issue, including in respect of existing legislation, to find real solutions that respect universal human rights standards;

(j) To promote initiatives for economic recovery by endorsing and initiating labour intensive projects; to develop an effective strategy to combat and protect against the plundering of natural resources, and to punish traffickers, where appropriate;

(k) To strengthen child protection initiatives and, in particular, initiatives for young persons released from armed groups; to initiate as soon as possible discussions on updating the National Plan for the Protection of Children which will set forth, among others, educational and professional opportunities and support mechanisms for child victims of armed conflict and children released from armed groups;

(l) To establish centres for assisting victims of sexual violence and forced marriage and for teenage mothers;

(m) To take into consideration the conclusions of the report on human rights violations of the Human Rights Division, once finalized, and commit to its broad dissemination.

123. **The Independent Expert recommends that MINUSCA:**

(a) Respond more proactively to threats against civilians and, in particular, be more present in sensitive areas such as displaced persons camps and enclaves where the communities are at risk;

(b) Continue documenting violence and violations of human rights and international humanitarian law and help identify the main perpetrators in order to notify domestic courts and the authorities of the future Special Criminal Court;

(c) Strengthen its good offices and political support for efforts to address the root causes of the conflict and to reduce the influence of armed groups through disarmament, demobilization and reintegration and security sector reform programmes;

(d) Strengthen mechanisms to monitor and communicate information on gender-based and sexual violence and make sure that adequate victim assistance mechanisms reflect the needs identified; ensure the effective implementation of these monitoring mechanisms and promote the publication of reports on cases of violence associated with the conflict;

(e) Continue placing victims at the heart of the response in case of sexual violence, abuse and sexual exploitation, and strengthen efforts to set up protection mechanisms accessible for all victims, whoever the perpetrators of the violations may be;

124. **Addressing the international community, the Independent Expert:**

(a) **Welcomes the efforts made so far, encourages it to step up those efforts and to fund priority programmes, including the Special Criminal Court, security sector reform and disarmament, demobilization and reintegration, paying specific attention to the needs of children associated with armed groups;**

(b) **Recommends that it strengthen its commitment, including with regard to subregional mediation to support the Government in its negotiations with armed groups and stakeholders, with a view to reaching a national consensus on disarmament, demobilization and reintegration and justice and restoring security in the Central African Republic;**

(c) **Recommends that it facilitate the holding of a regional conference on transhumance;**

(d) **Encourages it to fund the humanitarian response plan;**

(e) **Encourages it to further the implementation of measures aimed at preventing abuse, ending the scourge of sexual violence and exploitation by international forces once and for all, conducting related investigations and bringing the perpetrators to justice.**